



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/478,387	06/07/95	GRAY	J 028723-061

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EXAMINER	
MARSCHEL, A	
ART UNIT	PAPER NUMBER
1655	23

DATE MAILED: 09/24/99

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run _____ or continues to run 3 months from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- ☒ Applicant's response to the final rejection, filed 8/25/99 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: none

Claims objected to: none

Claims rejected: 1 and 48-50

However;

- ☒ Applicant's response has overcome the following rejection(s): those embodiments of the instant claims previously rejected over Rowley et al. (P/N 5,487,970)
4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because of reasons of record more fully explained as attached
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

The art unit designated for this application has changed. Applicant(s) are hereby informed that future correspondence should be directed to Art Unit 1655.

Further Explanation of Item 4 on the attached Advisory Action:

Claims 1 and 48-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Weissman et al., taken in view of Lichter et al. and Drabkin et al.

This rejection is modified in that arguments of applicants have persuasively removed Rowley et al. (P/N 5,487,970) as a basis of this rejection but Drabkin et al. remains a basis for this rejection regarding embodiments directed to chromosome 3 targets which are deemed separate optional distinct targets. The instant claims are interpreted as being directed to chromosome 3 and/or 17 targets thus resulting in some claim embodiments being directed to only chromosome 3 targets which are rejected as summarized above. This is therefore a relaxation of the rejection as previously stated and limited only to chromosome 3 embodiments. Applicants have not argued as to the basis of not granting priority as discussed of record and therefore the priority is still not deemed properly granted to the 1986 priority documents.

No claim is allowd.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61

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Art Unit: 1655

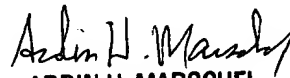
(November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The CM1 Fax Center number is either (703) 308-4242 or (703) 305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (703) 308-3894. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application should be directed to the Chemical Matrix receptionist whose telephone number is (703) 308-0196.

September 23, 1999


ARDIN H. MARSCHEL
PRIMARY EXAMINER